

# **EXHIBIT B**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**MONICA ABBOUD**, *individually and  
on behalf of all others similarly situated,*

*Plaintiff,*

v.

**AGENTRA, LLC,**

*Defendant.*

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**Case No. 3:19-cv-00120-K**

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**DEFENDANT’S FIRST AMENDED RESPONSES TO PLAINTIFF’S FIRST SET OF  
INTERROGATORIES**

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TO: Monica Abboud, by and through her attorney of record, Taylor T. Smith, Steven L. Woodrow, Robert B. Kleinman, and Brooke Frances Cohen, Woodrow & Peluso, LLC, 3900 East Mexico Ave., Suite 300, Denver, Colorado 80210.

Defendant Agentra, LLC (“Defendant”), serves its First Amended Responses to Plaintiff’s First Set of Interrogatories.

**RESPONSES TO INTERROGATORIES**

**INTERROGATORY NO. 1**

Identify all Persons and/or third parties from or through whom You obtained Lead Information regarding Plaintiff.

**RESPONSE:** Defendant will respond to this Interrogatory by producing business records pursuant to Fed. R. Civ. P. 33(d).

**INTERROGATORY NO. 2**

Identify and Describe the manner by which You claim any written or oral prior express

consent, permission, or invitation was obtained to call the Plaintiff.

**RESPONSE:** Plaintiff subscribed to certain health insurance plans marketed by Defendant on or around November 7, 2018 and January 22, 2019. As part of subscribing to such health insurance plans, Plaintiff provided her consent, permission, or invitation to receive calls from Defendant or a party acting on Defendant's behalf.

### **INTERROGATORY NO. 3**

Identify and Describe all Persons who You or any third party acting on Your behalf or for Your benefit caused to be called and/or texted on their cellphones using the same Dialing Equipment that You (or any third party acting on Your behalf or for Your benefit) used to call and text Plaintiff where the Person provided prior express consent in the same manner that You claim any consent was obtained to make calls to the Plaintiff.

**RESPONSE:** Defendant objects to this Interrogatory as vague and ambiguous and not relevant to any party's claim or defense as it presumes that Defendant has raised prior express consent as a defense. Defendant objects to this Interrogatory as not proportional to the needs of the case.

Subject to these objections, Defendant does not make any outbound calls or texts to cellphones using the same Dialing Equipment used to call and text Plaintiff where the Person provided prior express consent in the same manner that Defendant claims any consent was obtained to make calls to the Plaintiff.

**1ST AMENDED RESPONSE:** Defendant cannot identify and describe any Persons because Defendant has no knowledge of any "Dialing Equipment" that was used "to call *and* text Plaintiff where the Person provided prior express consent in the same manner that You claim any consent was obtained to make calls to the Plaintiff."

### **INTERROGATORY NO. 4**

Identify the total number of Persons that You or any third party acting on Your behalf or for Your benefit caused to be called or texted on their cellular telephones where the Person provided prior express consent in the same manner that You claim any consent was obtained to

make calls to the Plaintiff.

**RESPONSE:** Defendant objects to this Interrogatory as vague and ambiguous and not relevant to any party's claim or defense as it presumes that Defendant has raised prior express consent as a defense. Defendant objects to this Interrogatory as not proportional to the needs of the case.

Subject to these objections, Defendant does not make any outbound calls or texts to cellular telephones where the Person provided prior express consent in the same manner that Defendant claims any consent was obtained to make calls to the Plaintiff.

**1ST AMENDED RESPONSE:** The total number of Persons is 1.

#### **INTERROGATORY NO. 5**

For all Person Identified in Response to Interrogatory No. 3 above, Identify the total number of calls and/or texts placed to each Person and the dates and times of each such call or message.

**RESPONSE:** Defendant incorporates by reference its objections and response to Interrogatory No. 3.

#### **INTERROGATORY NO. 6**

Identify all telephone numbers that You or any third party acting on Your behalf or for Your benefit utilized to place calls and text message calls to Plaintiff.

**RESPONSE:** Defendant objects to this Interrogatory as vague and ambiguous. Defendant objects to this Interrogatory as not proportional to the needs of the case.

Subject to this objection, Defendant has no knowledge of any telephone numbers that were utilized to place calls and text message calls to Plaintiff.

**1ST AMENDED RESPONSE:** (214) 238-9664.

#### **INTERROGATORY NO. 7**

Identify any and all third parties that placed calls or text message calls to Plaintiff on Your behalf or for Your benefit, including any Downline Agents or other agents or Persons that place calls on Your behalf, for Your benefit, or in accordance with any contract with You.

**RESPONSE:** Defendant objects to this Interrogatory as vague and ambiguous. Defendant objects to this Interrogatory as not proportional to the needs of the case.

Subject to these objections, Defendant will respond to this Interrogatory by producing business records pursuant to Fed. R. Civ. P. 33(d).

#### **INTERROGATORY NO. 8**

Identify and Describe any and all Stop Requests and Do Not Call Requests that You (or any third party acting on Your behalf, for Your benefit, or in accordance with any contract with You) received from Plaintiff.

**RESPONSE:** Defendant objects to this Interrogatory as requesting information outside its possession, custody, or control. Defendant also objects to this Interrogatory as not proportional to the needs of the case.

Subject to this objection, Defendant will respond to this Interrogatory by producing business records of any Do Not Call Requests received by Defendant, to the extent they exist, pursuant to Fed. R. Civ. P. 33(d).

#### **INTERROGATORY NO. 9**

Identify and Describe the total number of Persons that You or any third party acting on Your behalf, for Your benefit, or in accordance with any contract with You caused to be called at least once after they submitted a Do Not Call Request.

**RESPONSE:** Defendant objects to this Interrogatory as vague and ambiguous. Defendant objects to this Interrogatory as not proportional to the needs of the case.

Subject to these objections, Defendant does not make any outbound calls to Persons who have submitted a Do Not Call Request, and Defendant has no knowledge of third parties purportedly acting on Defendant's behalf regarding the same.

**INTERROGATORY NO. 10**

Identify and Describe the total number of all calls that You (or any third party acting on Your behalf, for Your benefit, or in accordance with any contract with You) caused to be placed to any Persons who submitted a Do Not Call Request together with the dates and times of each call.

**RESPONSE:** Defendant objects to this Interrogatory as vague and ambiguous. Defendant objects to this Interrogatory as not proportional to the needs of the case.

Subject to these objections, Defendant does not make any outbound calls to Persons who have submitted a Do Not Call Request, and Defendant has no knowledge of third parties purportedly acting on Defendant's behalf regarding the same.

**INTERROGATORY NO. 11**

Identify and Describe the total number of Persons that You or any third party acting on Your behalf, for Your benefit, or in accordance with any contract with You caused to receive at least one text message call after they sent a Stop Request.

**RESPONSE:** Defendant objects to this Interrogatory as vague and ambiguous. Defendant objects to this Interrogatory as not proportional to the needs of the case.

Subject to these objections, Defendant does not send any outbound text messages to Persons who have submitted a Stop Request, and Defendant has no knowledge of third parties purportedly acting on Defendant's behalf regarding the same.

**INTERROGATORY NO. 12**

Identify and Describe the total number of all text message calls that You or any third party acting on Your behalf, for Your benefit, or in accordance with any contract with You caused to be sent to any Person after the Person sent You (or anyone acting on Your behalf, for

Your benefit, or in accordance with any contract with You) a Stop Request.

**RESPONSE:** Defendant objects to this Interrogatory as vague and ambiguous. Defendant objects to this Interrogatory as not proportional to the needs of the case.

Subject to these objections, Defendant does not send any outbound text messages to Persons who have submitted a Stop Request, and Defendant has no knowledge of third parties purportedly acting on Defendant's behalf regarding the same.

### **INTERROGATORY NO. 13**

Identify and Describe the nature of the calls and text message calls that You or anyone acting on Your behalf, for Your benefit, or in accordance with any contract with You caused to be placed to Plaintiff, including whether the calls featured a live person and a description of the technology used to make the call, including whether it featured an automated or pre-recorded voice.

**RESPONSE:** Defendant has not made any calls or text message calls to Plaintiff and Defendant has no knowledge of third parties purportedly acting on Defendant's behalf regarding the same.

**1ST AMENDED RESPONSE:** Defendant objects to this Interrogatory as vague and ambiguous, as it is unclear what is meant by "text message calls." Subject to this objection, Defendant states as follows:

As part of the enrollment process, any customer enrolling in an insurance product managed or administered by Defendant must electronically sign an enrollment consent document.

The independent contractors who enroll insurance customers (including Plaintiff) notify such customers that their electronic signatures are required to complete the enrollment process, and ask each such customer to provide either an e-mail address or telephone number for the purpose of sending such customer a hyperlink to a website wherein the customer's electronic signature can be recorded. The independent contractors are presented with the below screen in "1Enrollment," a software platform provided by a vendor of Agentra which Agentra's independent contractors use to process enrollments.

**Contact**

Phone 1 (469) 426 - 1686 x

Phone 2 ( ) - x

Best Call Time

Do Not Call ☐ Yes ☒ No

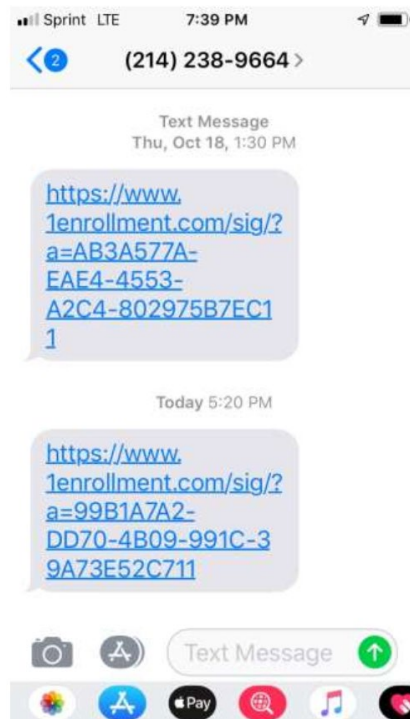
Email 1  Verify

Email 2  Verify

Email Opt Out ☐ Yes ☒ No

The electronic signature link is then delivered to the email address or telephone number voluntarily provided by the customer.

In Plaintiff's case, Plaintiff voluntarily provided her cellular telephone number to the independent contractor to whom she had agreed to purchase insurance (or expressed an interest in purchasing insurance) from, for the purpose of receiving the electronic signature link. She then received a text message consistent with this purpose, as seen below. These text messages are sent by 1Enrollment via Twilio.





**INTERROGATORY NO. 14**

Identify and Describe all steps taken and efforts made by You to comply with the TCPA, including but not limited to training of employees and/or any third party acting on Your behalf, for Your benefit, or in accordance with any contract with You.

**RESPONSE:** Defendant will respond to this Interrogatory by producing business records pursuant to Fed. R. Civ. P. 33(d).

**INTERROGATORY NO. 15**

Identify and Describe any and all guidelines that You provide to your Downline Agents or any other third parties that conduct any telemarketing activities on Your behalf, for Your benefit, or in accordance with any contract with You.

**RESPONSE:** Defendant will respond to this Interrogatory by producing business records pursuant to Fed. R. Civ. P. 33(d).

**INTERROGATORY NO. 16**

Identify and Describe any and all oversight or control that You possess over any Downline Agent or any other third parties that conduct any telemarketing activities on Your behalf, for Your benefit, or in accordance with any contract with You.

**RESPONSE:** Defendant will respond to this Interrogatory by producing business records pursuant to Fed. R. Civ. P. 33(d).

**INTERROGATORY NO. 17**

Identify and Describe all telephone calls and text message calls that You, any Downline Agent, or any other third party acting on Your behalf placed to Plaintiff, including the date, time, duration, substance and purpose of each call and text and the total number of all such calls.

**RESPONSE:** Defendant objects to this Interrogatory as vague and ambiguous. Defendant objects to this Interrogatory as not proportional to the needs of the case.

Subject to this objection, Defendant has no knowledge of any telephone calls or text message calls that were placed to Plaintiff, whether by Defendant or any purported third party acting on Defendant's behalf.

**1ST AMENDED RESPONSE:** Defendant also objects to this Interrogatory as duplicative of Interrogatory No. 13. Subject to this objection, Defendant incorporates by reference its objections and responses to Interrogatory No. 13.

#### **INTERROGATORY NO. 18**

Identify and Describe all Dialing Equipment utilized by You or any third party acting on Your behalf during the relevant time period, including the length of time each was used.

**RESPONSE:** Defendant objects to this Interrogatory as overbroad and not proportional to the needs of the case.

Subject to this objection, Defendant does not make any outbound phone calls for the purpose of marketing. Defendant has no knowledge regarding any Dialing Equipment used by any purported third party acting on Defendant's behalf, to the extent any such Dialing Equipment was utilized to begin with.

**1ST AMENDED RESPONSE:** Defendant identifies Twilio. Defendant's knowledge of Twilio consists of the publicly available information found at [www.twilio.com](http://www.twilio.com).

#### **INTERROGATORY NO. 19**

Identify and Describe the complete factual basis, if any, for Your contention that the Dialing Equipment utilized to place calls and text message calls to Plaintiff does not constitute an automatic telephone dialing system.

**RESPONSE:** Defendant objects to this Interrogatory as seeking information protected by attorney-client privilege and work-product doctrine.

Subject to these objections, Defendant has no knowledge regarding what Dialing Equipment was utilized to place calls and text message calls to Plaintiff.

**1ST AMENDED RESPONSE:** The text message Plaintiff received to electronically sign her enrollment consent document was sent by 1Enrollment via Twilio. There are two separate reasons why this “equipment” does not constitute an automatic telephone dialing system (“ATDS”).

First, this equipment does not store telephone numbers using a random or sequential number generator or produce telephone numbers using a random or sequential number generator, placing it outside the scope of an ATDS. *See, e.g., Adams v. Save Home Security, Inc.*, No. 3:18-cv-03098, 2019 WL 3428776 (N.D. Tex. July 30, 2019) (“Thus, ‘using a random or sequential number generator’ modifies both ‘to store’ and ‘to produce.’”); *Glasser v. Hilton Grand Vacations Co., LLC*, 948 F.3d 1301, 1310 (11th Cir. 2020) (collecting cases).

Second, the equipment requires human intervention in the form of the independent contractor entering a prospective enrollee’s number into 1Enrollment, presenting another reason the equipment does not qualify as an ATDS. *Id.* at 1312 (“The telephone equipment in her case required human intervention and thus was not an ‘automatic’ dialing system in the first place.... This reality cannot be squared with the accepted assumption that auto-dialers must *automatically* dial the numbers.”) (emphasis added).

#### **INTERROGATORY NO. 20**


Identify and Describe any internal investigations that You conducted regarding the Downline Agent(s) or other individual(s) responsible for placing of calls or text message calls to Plaintiff including the results of any such investigations.

**RESPONSE:** Defendant objects to this Interrogatory as seeking information protected by attorney-client privilege and work-product doctrine.

Dated: March 6, 2020

Respectfully submitted,

**PLATT CHEEMA RICHMOND PLLC**

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**COUNSEL FOR DEFENDANT**

**CERTIFICATE OF SERVICE**

The undersigned counsel for Defendant hereby certifies that this document was served on counsel of record on March 6, 2020 by electronic mail to counsel of record.



WILLIAM S. RICHMOND